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Situation of human rights in Burundi

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the independent expert on the situation of human rights in Burundi, Akich Okola, submitted pursuant to Commission on Human Rights resolution 2005/75, endorsed by the Economic and Social Council in its decision 2005/275.

* A/60/150.
** This report is submitted late in order to include the most up-to-date information possible.

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Report of the independent expert on the situation of human rights in Burundi, Akich Okola

Summary

This report follows the third mission to Burundi by the independent expert, which took place from 2 to 10 July 2005, coinciding with the legislative elections held on 4 July 2005. It covers the period from January to 15 August 2005.

In general, during the reporting period the peace process in Burundi has been advancing steadily, there has been significant progress in the legislative process and the security and human rights situations have improved. A total of 12,524 ex-combatants have begun the disarmament, demobilization and reintegration process, including 2,939 children. The new Constitution was promulgated on 22 March following a referendum in which more than 92 per cent of voters participated. Communal elections were held in June and legislative elections in July, with presidential elections scheduled for 19 August. Many women voted and stood as candidates. The National Assembly and Senate were constituted, with a significant proportion of women.

Despite these advances, human rights violations continue to be observed on a daily basis. Armed elements, including the military, are reported to be responsible for violations of the right to life, torture, arbitrary detention, sexual violence and mass displacement of people from their homes. Poverty affects the access of the population to health care and encourages the transmission of HIV/AIDS; more than 50 per cent of the population lives below the poverty line.

The reforms in the judicial sector have had limited impact. Prisons are overcrowded, and no consensus has been reached on who should be categorized as "political prisoners". The Truth Commission has yet to be established.

The independent expert urges the parties to ongoing conflict to negotiate and to respect non-combatants, encourages the Government to press ahead with the reforms provided for in the Arusha Agreement, and appeals to the international community to support these efforts.

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I. Introduction

1. During his mission from 2 to 10 July 2005, the independent expert on the situation of human rights in Burundi met top-ranking political leaders and members of the Government, including the Minister for Institutional Reforms, Human Rights and Relations with the Parliament, the Minister of the Interior, the Minister for Public Security and the Minister of Justice. He also met the President of the National Assembly, representatives of the main political parties, members of the Commission electorale nationale indépendente (CENI), representatives of the international community in Burundi, including the United Nations Operation in Burundi (ONUB) and the diplomatic corps. He travelled to the Provinces of Bururi and Mwaro, where he observed the legislative elections held on 4 July, as well as to the Province of Gitega, where he met with detainees in the prison of Gitega.

2. The independent expert wishes to thank all those whom he met for their courtesy, availability and contribution to the success of his mission. The independent expert would like to extend his special thanks to the Burundian authorities for facilitating his mission, to the Office of the United Nations High Commissioner for Human Rights — Burundi (OHCHRB) for its assistance in the organization of his mission as well as to all his interlocutors for their willingness to exchange views on the human rights situation in Burundi.

3. The independent expert's mission took place in an election period which started in February 2005 and ends in September 2005. Despite some violence and minor irregularities, the electoral process has been successful and gives renewed hope for sustained peace in Burundi after an 11-year civil war in which an estimated 300,000 people have been killed.

4. The present report will address the general situation in Burundi with a special focus on the evolution of the political and human rights situation. The independent expert would also like to present to the General Assembly his observations and recommendations.

II. General situation

5. The independent expert is pleased to note that the peace process in Burundi has advanced steadily since February 2005. The referendum on the new Constitution, which was initially scheduled in October 2004 and was postponed to November 2004 and then to December 2004, finally took place on 28 February 2005. The referendum can be considered to be a success — the turnout was more than 92 per cent, with a 90 per cent "yes" vote and an 8 per cent "no" vote. The participation of women was significant — 51 per cent of the voters. After the results were validated by the Constitutional Court, the Constitution was promulgated on 22 March 2005.

6. There has also been significant progress in the legislative process: a Truth and Reconciliation Commission has been set up and legislation on new integrated national police and armed forces has been adopted. Currently, the new integrated forces are being consolidated, but the process has just commenced.

7. On 20 April 2005, the communal elections law and electoral code were promulgated, and CENI announced the revised electoral schedule: communal

elections on 3 June; legislative elections on 4 July; Senate elections on 29 July; presidential elections (by the new Parliament) on 19 August; and colline elections on 23 September 2005.

8. Despite some violence, which resulted in revoting in some 31 polling stations, mainly in the Provinces of Bubanza and Bujumbura Rural, the communal elections of 3 June were held successfully and paved the way for the legislative and senatorial elections in July. The Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) won more than 55 per cent of the 3,225 seats and established itself as the main political party in the country. The Front pour la Démocratie au Burundi (FRODEBU) of current President Domitien Ndayizeye won some 25 per cent and the Tutsi-dominated Union pour le progress national (UPRONA) 8 per cent.

9. During his visit in July, the independent expert visited three polling stations in the Province of Bururi — the primary school of Kabuye, the primary school of Kiremba and the lycée of Bururi — and three polling stations in the Province of Mwaro — the primary school of Kigutu, the primary school of Mutumba and the *Centre technique des métiers* of Makamba. The independent expert observed strong participation among the population, as well as the presence of representatives of political parties and civil society who were monitoring the election process. Both in Bururi and Mwaro, the governor of the province and the representative of ONUB pointed out that the campaign had proceeded well and that the security situation was satisfactory. The independent expert was informed that, whereas political parties had organized public meetings for the communal campaign, all of them had reverted to door-to-door campaigning for the legislative elections. The turnout seemed to be lower than the one registered in the communal elections, but no major irregularities were reported. A few people were turned away because their names were not found on the lists, but it is likely that they were able to vote at other polling stations. According to the population observers and political parties, the vote went smoothly. Civil society and the media played a very positive role in the overall electoral process before, during and after the elections.

10. More than 76 per cent of the 3,156,845 registered voters participated in the legislative elections. Once again there was a remarkable involvement by women. After a process of co-optation in order to conform to ethnic and gender balances, in accordance with article 129 of the electoral code, the composition of the National Assembly is 64 seats for CNDD-FDD, 30 for FRODEBU, 15 for UPRONA and 9 for other parties including 3 seats for the Batwa; 30 per cent of the 118 members of the National Assembly are women. Based on the results of the senatorial elections of 29 July and following a similar co-optation approach, of the 49 seats in the Senate, overwhelmingly dominated by CNDD-FDD, 34 per cent are occupied by women. Three former Heads of State are also senators, namely Jean-Baptiste Bagaza, Pierre Buyoya and Sylvestre Ntibantunganya. The first sessions of the newly elected National Assembly and Senate were scheduled to be held on 11 and 17 August. The presidential election was to be held on 19 August and the new President inaugurated on 26 August. Pierre Nkurunziza, long-time leader of CNDD-FDD, accepted his party's nomination as its presidential candidate and was expected to win the election. The presidential election will officially mark the end of the current post-transition period that followed the signing of the Arusha Agreement in August 2000.

11. During the visit, on the whole, most of the independent expert's interlocutors acknowledged that the elections had been planned and conducted in an acceptable manner, notwithstanding some complaints by political parties that the process leading up to the elections was too quick and carried on under pressure that CENI was inexperienced, and that some political parties were supported by the Government. However, all of the political actors accepted the election results, and committed themselves to play a constructive role in the future. The representatives of the international community agreed that the Burundians had conducted successful elections in a very short time frame. However, bearing in mind the experience of the past, there was a need for caution and sustained support in order for peace and democracy to generate tangible dividends for all Burundians.

12. In general, the security and human rights situation in Burundi has improved. The *Parti pour la libération du peuple hutu — Forces nationales de libération* (PALIPEHUTU-FNL) led by Agathon Rwasa, the only armed group that had not joined the peace process, engaged in negotiations with the Government and declared a cease fire in April 2005. A Cessation of Hostilities Agreement was signed on 15 May between FNL and the Government, but its implementation has not yet yielded the expected results. The legislative elections have changed the political landscape and the negotiation process has to be resumed by the new Government. Meanwhile, clashes continue to be reported between troops of the new Burundian Armed Forces — the Forces de défense nationales (FDN), comprised of troops of CNDD-FDD and of the *forces armées burundaises* (FAB), and FNL. In the beginning of June, an estimated 23,000 people fled their homes in the Province of Bubanza because of fighting between Government soldiers and FNL.

13. With regard to the disarmament, demobilization and reintegration (DDR) process, as of 31 May 2005, a total of 12,524 ex-combatants had begun the demobilization process, of whom 9,300 were men, 515 women and 2,939 children; 1,660 adult ex-combatants remained in the demobilization centres as of that date. Not all child soldiers have been demobilized and there are reports that FNL has been actively recruiting minors since March 2005. However, as a whole, the project to demobilize and reintegrate child soldiers, which has been implemented in close coordination between the national DDR programme and the United Nations Children's Fund (UNICEF), can be considered to be a success. The focus now has shifted to provision of adequate reintegration of ex-combatants, including the *guardiens de la paix*, and ex-child soldiers. There were reports of riots staged by some *guardians de la paix* whose demobilization fees had not been paid owing to conflicting figures about their numbers. However, new lists are being established and the disbursement delays should be overcome in the coming months. The disarmament of civilians is another matter of concern. On 4 May, the Government issued a decree in this respect concerning three groups of people: the *guardians de la paix*; people who were given weapons under the self-defence policy; and people who own weapons under an official licence. A National Commission for the Disarmament of Civilians was set up, divided into technical subcommissions at a provincial level. However, the whole structure is not yet operational and the process is complex and costly. Burundi is getting support from the World Bank, the United Nations Development Programme (UNDP) and ONUB in this respect.

14. The subregional context remains explosive — the volatile situation in the east of the Democratic Republic of the Congo, the movement of some 7,500 Rwandese from Rwanda to Burundi in April 2005, reportedly fleeing the *gacaca* courts, as well

as the proliferation of small arms are all factors that have to be carefully monitored in order to keep the peace process in the region on track. The security concerns in the subregion should be dealt with in a holistic way, as the flow of weapons is a common feature for all the countries.

15. At the social level, war, a fragile economy and rising prices have further increased the poverty of the Burundians, especially children, women and the elderly, who still constitute the bulk of victims of human rights violations. During the period under review, the Provinces of Kirundo and Muyinga were hit by drought and famine, and the social tension was manifested by strikes of the medical personnel, civil servants and others. The sustainability of peace and security requires the alleviation of the widespread poverty which makes the population an easy prey to manipulation and bears seeds of the cyclical conflicts that Burundi has undergone ever since its independence.

III. Human rights situation

16. The efforts made by the various parties that have led to peace have had a positive impact on the human rights situation in Burundi. However, human rights violations continue to be observed on a daily basis. Violations of civil, political, economic and social rights abound, while impunity and the inefficiency of the justice system contribute to the already widespread feeling of insecurity, making the progress achieved so far appear fragile.

A. Civil and political rights

1. Violations of the right to life

17. The independent expert noted that, during the period under consideration, there continued to be numerous violations of the right to life. The perpetrators are elements of the military: FAB, CNDD-FDD and the new FDN, members of FNL, prison guards, armed bandits and unknown persons.

18. According to information collected by the human rights observers of ONUB, 149 alleged violations of the right to life were reported in the first half of the year. The majority of the cases occurred in the context of the conflict in the Province of Bujumbura Rural, which was the arena of cyclical violence between the military and FNL. More than 50 individuals were victims of targeted killings by FNL allegedly for collaboration with the authorities.

19. As observed in previous reports, the overwhelming majority of the victims are civilians. Most of the perpetrators are not prosecuted, in particular when the military is involved. Many of the violations are not reported either because of fear of reprisals or lack of confidence in the judicial system.

20. A new worrying trend is the killing of detainees during attempts to escape from prison, and the phenomenon of mob justice. Twelve inmates of the Muyinga, Rumonge, Ruyigi and Ngozi prisons were killed in recent months, a particularly disturbing case being the shooting by prison wardens of four Muyinga inmates who were already lying wounded on the ground. Investigations into these killings are either non-existent or very slow, and often no action is taken against the

perpetrators. ONUB also documented at least 30 cases of mob justice, in which suspects were beaten to death, burnt alive and their houses burnt down or destroyed, indicating the extent of discontent with and mistrust of the justice system within the population. Victims were usually accused of sorcery, theft or poisoning.

2. Violations of the right to liberty, security and inviolability of the person

21. Violations of these rights still abound. Such violations are attributable to all the parties, but also to bandits or unknown or unidentified persons. The independent expert was informed of the persistence of torture and arbitrary detention, particularly in military installations or illegal detention centres.

22. ONUB human rights observers report that holding of suspects in detention centres beyond the statutory limit, or without supporting evidence, continues to be a common problem. In provinces where FNL was active, most of the individuals arrested were perceived to have had links with FNL and were sometimes held for several weeks, or even months, by FAB, FDN or CNDD-FDD. Those detained were sometimes required to pay money for their release.

23. The independent expert was informed that the civilian population continues to suffer extortion, looting and destruction of their property both by FNL and Government Armed Forces. ONUB has documented 43 cases of looting and destruction of civilian property by all parties. When the population is displaced by fighting, their property is systematically looted and they find their homes burnt or destroyed upon their return.

3. The proliferation of sexual violence

24. Sexual violence, including gang rapes, perpetrated by members of armed groups and soldiers of the regular army, and also by unknown persons, continues to be reported. The victims are mainly female minors, some as young as two, but also young boys. ONUB has documented 68 cases during the last six months, but it is believed that the actual number is much higher.

25. Most of the rape cases are not reported, either because victims fear reprisals, or because of cultural reticence, fear of stigmatization and lack of confidence in the justice system. Responsibility in rape cases is difficult to establish. Lack of material and human resources is also an obstacle to successful prosecutions, which are rare and very slow. Failure to bring to justice those responsible for sexual violence results in impunity for such crimes and encourages potential perpetrators. This violence also contributes to the spread of HIV/AIDS and the increase in unwanted pregnancies.

4. Violations of freedom of movement and freedom to choose one's residence

26. Despite the decrease of displacement of civilian population throughout the country, the continuous conflict, particularly in the Province of Bujumbura Rural, is causing constant mass displacements of people fleeing combat zones. In addition, the volatile political situation in Burundi and the subregion provokes alternating movements of Burundian, Rwandese or Congolese refugees departing from or returning to neighbouring countries.

(a) Situation of displaced persons

27. The number of displaced persons within the country remains high, exceeding 116,000 persons spread among 160 sites, with 58 per cent concentrated in the northern and central Provinces of Gitega, Kayanza, Kirundo, Muyinga and Ngozi, most of them displaced since the crisis of 1993.[1] A recent survey of the Office for the Coordination of Humanitarian Affairs (OCHA) showed that at least 50,000 of them are unable or unwilling to return home. The latest figures confirm the decreasing trend in the number of displaced persons, down from 144,000 in 2004 and more then 300,000 in 2003. However, the fighting between the Government forces and the FNL rebels in early June in the Provinces of Bujumbura Rural and Bubanza has led to the displacement of an estimated 23,000 people.

(b) Situation of returnees

28. There are over 430,000 Burundian refugees outside the country, most of them in the United Republic of Tanzania — some 238,000 of them in camps and 198,000 more living in settlements in the west of the country. Return movements continue, steadily increasing since 2002, even if the number of returnees for the first half of this year is still not very high. However, the Office of the United Nations High Commissioner for Refugees (UNHCR) expects in August at least a sixfold increase in the number of Burundian refugees returning home compared to June: 20,000 refugees were expected to return in August, up from 3,116 in June. The total figure for facilitated and spontaneous returns in all provinces of the country was 28,180 people as of 15 August 2005.[2] From the beginning of 2002 up to 15 August, 254,156 Burundians had returned — 53,283 in 2002, 82,366 in 2003 and 90,327 in 2004, mainly from the United Republic of Tanzania. Reception of returnees is supported by the UNHCR. Reception and settlement of returnees are still not easy. Some of them, especially those who left Burundi after 1972, face land issues, particularly in the south and south-west.

29. A wave of Rwandese asylum-seekers estimated at between 8,000 and 10,000 crossed into Burundi between late March and early May. Some of the Rwandans claimed that they had fled Rwanda because of fears caused by the start of local traditional *gacaca* tribunals, set up to look into the Rwandan genocide. Others said that they were fleeing because of the threat of ethnic violence and discrimination. Despite the protests of the international community, officials of both countries decided in June that these people should be reclassified as "illegal immigrants" and most of them had been forced back to Rwanda by mid-June. UNHCR estimates that there are still more than 2,000 Rwandan asylum-seekers in the northern provinces of Burundi, but the Burundian authorities' estimate is 200 families.

30. ONUB in collaboration with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), continued its investigation into the Gatumba massacre of more than 160 Congolese refugees in August 2004. The report of the independent commission of inquiry set up by the Government of Burundi has not yet been released.

[1] Figures provided by the Office for the Coordination of Humanitarian Affairs, April 2005.

[2] Figures provided by UNHCR (Burundi office).

5. Violations of freedom of opinion and expression

31. A lot of progress can be noted in these areas, as well as some failures. The media actively participated in the monitoring of the election process and in the sensitizing of the Burundian population. However, one of the most popular radio stations, *Radio publique africaine* (RPA), was closed down for almost a week after it was accused of biased reporting by the media regulatory body, the National Communication Council (NCC). The station had also been ordered off the air in February as well as in 2003. After strong pressure by national and international organizations, NCC authorized RPA to resume its programmes as of 27 July.

6. Women's rights

32. Women are one of the groups most affected by the conflict and the growing poverty. Women not only are disadvantaged through lack of material means, but also because of ignorance of their rights. In rural areas, the traditional obstacles weigh very heavily on respect for women's rights. The bill on matrimonial dispositions, successions and regimes has been pending approval by the Council of Ministers and the Parliament for more than five years. One of the reasons is said to be lack of a public awareness campaign which would explain and clarify its provisions to the population at large.

33. Despite the fact that women are still underrepresented in the political parties and that their participation in decision-making is still small, some progress has been made in their representation in the legislative bodies constituted after the elections. Based on the provisions of the electoral code, women were co-opted to sit in the National Assembly and the Senate and now represent 30 and 34 per cent of those bodies, respectively.

7. Children's rights

34. Children's fundamental civil, political, economic, social and cultural rights continue to be violated on a regular basis. Violations affect especially children who are victims of war, street children, child soldiers, minors in prison and children who are AIDS orphans.

35. The demobilization of child soldiers, following an agreement signed between UNICEF and the Government of Burundi and financed by the World Bank, started in January 2004 but is still not complete. The first phase, which ended in September 2004, saw the demobilization of 2,300 children. Under the second phase, which began in December 2004 and is still ongoing, some 618 child soldiers were demobilized. Most of the child soldiers were used as porters, cooks and scouts. Following their demobilization, focus has shifted to the provision of reintegration assistance, which is carried out through 10 national and international NGOs. According to UNICEF, 81 per cent of demobilized children have been reintegrated into their biological families.

36. Even if they are relatively few in number compared with other detainees, many children in detention are held with adults. The independent expert was informed that some male minors held with adults in the Ngozi prison alleged that sexual abuse by adult prisoners was common practice. Other minors claimed that they were often forced by the adult prisoners to carry out chores for them, such as cleaning prison cells. Minors are often arrested and can either remain in prison without trial for

many years, or be sentenced to very heavy terms of between 10 and 20 years, without having had the assistance of a lawyer during their trial.

B. Economic, social and cultural rights

37. The independent expert cannot report any improvement in the situation of economic, social and cultural rights in the period concerned. Burundi continues to be among the five nations with the lowest human development index in the world. A welcome development was the announcement by the World Bank that the Government of Burundi had met the economic targets under the Heavily Indebted Poor Countries (HIPC) Initiative for international creditors to write off what would have amounted to US$ 1.5 billion in debt servicing.

38. As mentioned in previous reports, official statistics indicate that the proportion of the population living below the poverty line has remained well above 50 per cent in the last six years. Access to basic health and education services is still seriously constrained by the ongoing conflict in some provinces, but also by structural factors related to the lack of infrastructure, equipment and human resources. For instance, after a month-long strike Burundian primary and secondary school teachers resumed work on 1 August, but lecturers at Bujumbura's public university are still on strike, demanding three years' salary arrears as well as payment for overtime and for supervising students' theses.

39. The prevalence of HIV/AIDS is rapidly approaching the 9 per cent average of sub-Saharan Africa. The increase is closely linked with malnutrition and tuberculosis, but also fuelled by numerous cases of violence against women, the precariousness of living conditions and ignorance. In addition to the difficulties of gaining access to care, persons suffering from AIDS are subjected to discrimination of various kinds at the social and occupational levels.

40. Large numbers of Burundians still cannot enjoy access to care, because of a lack of funds or prevailing insecurity. Cases of the virtual seclusion in hospitals of patients who have not been able to meet the costs of the care received continue to be reported and affect the majority of the public hospitals.

C. Justice and the rule of law

1. Administration of justice and the rule of law

41. Despite the progress observed in some areas of the Arusha Agreement, as a whole the implementation of the reforms in the judicial sector has been delayed and has had a limited impact, thereby contributing to impunity. People are still being detained beyond the time limits established under the Code of Criminal Procedure. Many detainees are reported to have spent several years in detention, sometimes up to nine years, without sentence. Moreover, the balanced and fair exercise of the rule of law is hampered by lack of financial, material and logistical resources such as paper, furniture, office equipment and means of transportation; this undermines the efforts deployed within the judicial system.

42. The independent commission on issues related to prisoners, which was established by the Government in June 2002, has still not managed to reduce significantly the number of prisoners held in detention centres, despite repeated appeals by the Arusha Agreement Implementation Monitoring Committee (IMC),

the United Nations Commission on Human Rights and the international community. The issue of "political" prisoners has developed into a complex and potentially explosive issue. In order to address these problems, recourse has been made mainly to technical solutions. In March, the Minister of Justice requested the Presidents of the *Tribunaux de grande instance* and prosecutors to proceed with the provisional release of detainees awaiting trial for over six years, and those still in the instruction phase after eight years. Some 600 detainees might qualify under this measure. During the reporting period 331 people were said to have been released. However, the Government acknowledged the difficulties encountered in dealing with this issue, in particular regarding a definition of who should be considered as a political prisoner. IMC qualified this as a lack of political will, and intends to submit a petition to the new Government regarding this issue.

43. On 5 January, the President of Burundi promulgated a law on the establishment of a national Truth and Reconciliation Commission. In its resolution 1606 (2005) adopted on 20 June, the Security Council acknowledged the crucial importance of reconciliation for peace and national unity in Burundi, and shared the view that the creation of a mixed — international and national members — Truth Commission should contribute to it. The Secretary-General was requested to initiate negotiations with the Government and all Burundian parties on how such mixed Truth Commissions and a Special Chamber within the court system of Burundi could be established. The Secretary-General was requested to report to the Council by 30 September 2005. During his mission, the independent expert was advised that several issues regarding such a commission were still to be clarified: how to make the reconciliation aspect more explicit; what would be the source of funding; what would be its structure. However, all interlocutors were supportive of the establishment of a Truth Commission as requested in the Security Council resolution. Some political parties would rather have a commission that would focus on the truth, and then leave the Burundians to decide what to do with it. There was agreement that the commission should be mixed, some suggesting that it should be granted competence to carry out investigations and prosecutions beyond the borders of Burundi, if necessary.

44. The independent expert was informed of the existence of 12 mass-grave sites in the Province of Bururi — 11 in the commune of Rumonge and 1 in the commune of Vyanda. Each of the mass graves reportedly contains the corpses of between 3 and 200 persons killed during the violence that took place between 1993 and 1997. There were also reports of other mass graves throughout the country. The independent expert hopes that the establishment of the Truth Commission will shed more light on these and other crimes.

45. Almost four years after the deadly assault on Dr. Kassi Manlan, former World Health Organization representative in Burundi, the Criminal Chamber of the Bujumbura Court of Appeal sentenced four senior army and police officers to death for planning and carrying out the execution of Dr. Manlan. All four had been on the initial commission of inquiry set up to investigate Dr. Manlan's killing. The convicts were to appeal the sentence to the Supreme Court. The Court also sentenced three others to life imprisonment and two to 20 years. The motive for the killing has not been established.

2. Prisons

46. Prison overcrowding remains one of the great problems facing the prison administration. This has a very negative impact on health, nutrition, sanitary conditions, access to water, etc. As recommended in previous reports, the Burundian authorities can apply several solutions, including increasing the number of releases on parole and accelerating the judicial process.

47. During his visit in July, the independent expert visited the prison of Gitega, focusing on the issue of "political" prisoners. The prison capacity is 400, but it currently houses 1,126 inmates, including 14 minors, of whom 666 have been tried and 460 are awaiting trial. This is a decrease of 808 prisoners since 2000, owing to the new law which granted criminal competence to the *Tribunaux de grande instance*, along with provisional release measures. Women, men and minors are separated at night, but they stay together during the day because of lack of appropriate facilities.

48. About half of the 1,126 inmates are accused of participation in the 1993 massacres, and consider themselves political prisoners. 352 of this group have been tried and 214 are awaiting trial. The independent expert met with their representatives, who raised several concerns including lack of fair trial, lack of transparency and fair treatment with regard to provisional release of detainees, and lack of political will among the politicians to agree on a definition of who should be considered a political prisoner. They submitted a detailed petition explaining their claims.

IV. Observations and recommendations

49. **The independent expert reiterates the recommendations set out in his earlier report (E/CN.4/2005/118), which have not been followed, and makes further recommendations to the parties to the conflict, the Burundian authorities and the international community.**

A. To the parties to the conflict

50. **The independent expert urges the belligerents, in particular in the Province of Bujumbura Rural, to cease all hostilities and to sit down at the negotiating table without further delay.**

51. **He appeals to the belligerents to respect the rights of the civilian population, and especially the rights to life, security and inviolability of the person, and urges them to not involve civilians in the armed conflict.**

52. **The independent expert urges the belligerents to respect international humanitarian law and requests that they refrain from attacking economic and social infrastructure.**

B. To the Burundian authorities

53. The independent expert recommends that the Government take all appropriate steps to combat impunity effectively and put an end to arbitrary detention and torture.

54. He urges the Government to take immediate measures to implement the recommendations of the independent commission on issues relating to prisoners, or other appropriate measures to resolve that issue.

55. The independent expert welcomes the measures taken to demobilize and disarm the civilian self-defence forces and civilians in general, and encourages the Government to speed up the process.

56. He requests the Government to take all necessary steps to put an end to impunity for sexual violence, punish the perpetrators and ensure that the victims receive the necessary support.

57. The independent expert encourages the Burundian authorities to press ahead with the reforms provided for by the Arusha Agreement, especially those relating to human rights and the reform of the armed forces, and in particular to envisage the establishment, within a reasonable time, of a national human rights commission.

58. He urges the Government to complete the national investigation to ensure that the perpetrators of the Gatumba killings and those who aided and abetted them are brought to justice.

C. To the international community

59. The independent expert commends the international community, particularly the Regional Initiative on Burundi, the Security Council, the African Union and the Special Representative of the Secretary-General, for their efforts to ensure the success of the peace process.

60. He appeals to the members of the international community to continue to support humanitarian and development assistance and to do all they can to fulfil rapidly the commitments they assumed at the Paris and Geneva conferences, especially those concerning the campaign against HIV/AIDS, priority development programmes and human rights.

61. The independent expert encourages the international community to increase its support for the Burundian justice system, in particular regarding the truth and reconciliation process which is expected to be engaged in the coming months.

62. He urges the international community to release the funds pledged at the Paris, Geneva and Brussels conferences and requests the international community to support the efforts of the Government of Burundi to encourage respect for and promotion of human rights and to secure lasting peace.

63. The independent expert commends and supports the efforts of the United Nations in Burundi, in particular the Office of the United Nations High Commissioner for Human Rights in Burundi and the United Nations Operation in Burundi, the international community as well as civil society to ensure better protection and promotion of human rights and encourages them to strengthen their cooperation in this regard.